IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 52 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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KALUMIYA ABDULMIYA ARAB

Versus

USMANMIYA ABDULMIYA ARAB

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Appearance:

MR NK MAJMUDAR for Petitioners

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 12/01/2001

ORAL JUDGEMENT

1. Present Revisioner preferred Regular Civil Suit No. 1114/99 in the Court of Civil Judge, (Senior Division), Vadodara for declaration and injunction alongwith the suit. He also preferred an application for

temporary injunction vide Exh. 5. The application came to be rejected by the Trial Court. Plaintiff/Revisioner therefore approached the District Court, Baroda with Civil Miscellaneous Appeal No. 255/2000 to challenge the said order. Pending that appeal the Revisioner preferred an application Exh. 10 praying for calling upon respondent to produce a certified true copy of the passport of the respondent and further to permit to keep the original passport present for verification at the time of production of such certified true copy. The second Joint District Judge vide his order dt. October 16,2000 rejected the application. Aggrieved by the said rejection the present Revision Application is preferred.

2. The direction was sought by the Revisioner/Appellant on a plea that according to the Revisioner/Appellant, the respondent had gone abroad between 1977 and 1985 A.D. and he is in possession of his original passport which would carry requisite endorsement and to enable the appellant to prove the case, the Court may direct the respondent to produce his passport. The learned Joint District Judge rejected his application mainly on the ground that the plaintiff/appellant did not avail of the opportunity before the Trial Court of getting these documents produced. The learned Judge also observed that the appellant has no legal right to call for the passport from the defendant in absence of any pleading to that effect and ultimately rejected the application.

3. Learned Advocate Mr.Majumdar, has vehemently argued the case for the Revisioner. However, he was at loss to point out as to under what provision can a party request the Court to direct the other side to produce an evidence adverse to the interest of that party. He was at loss to indicate any jurisdictional error committed by the Court below while passing the impugned order. He could not indicate anything to show that any illegality or material irregularity is committed while exercising jurisdiction.

4. No merits are therefore found in this Revision Application and the same therefore stands rejected. No costs.

(A.L.Dave, J.)

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